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SUCCESSFUL ECONOMIC DEVELOPMENT AND HETEROGENEITY OF GOVERNMENTAL FORM ON AMERICAN INDIAN RESERVATIONS

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Stephen Cornell and Joseph P. Kalt

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IRIS Summary

American Indian citizens on the nation's 300+ reservations are the poorest minority in the United States. Reservations are commonly places of severe unemployment and the social and economic manifestations of poverty. However, since the start of a new era of self-determination and self-governance about twenty years ago, a handful of reservations have broken ranks and embarked on paths of sustained economic development. Such factors as resource endowments and human capital stocks explain very little of the differential economic success now evident among Indian reservations. Rather, the relatively successful reservations over the last two decades are distinguished by the creation of stable political institutions that are relatively successful at implementing public decisions and inhibiting wasteful rent-seeking. Moreover, effective political institutions are consistently marked by a congruence between their form and powers, on the one hand, and the form and powers of pre-reservation tribal government, on the other hand.

While it is clear that the institutions of governance matter crucially to the economic development of reservations, there is a wide variety of institutional and constitutional forms among even successful reservations. We hypothesize that this reflects a process of "same problems, different solutions." The "problems" include establishment of a rule of law, adoption of public policies of "free trade" with the non-Indian economy, and maintenance of a substantial degree of political stability. The "solutions" consist of the institutional designs of reservation government, including their judicial, legislative, and executive functions.

This paper examines the problem-solving capacities of reservation governments among a number of tribes. Particular attention is paid to two economically successful and developing (non-gaming) reservations: the Flathead of Montana and the Cochiti Pueblo of New Mexico. The former is governed via a well-developed and codified parliamentary democracy, while the latter operates under a centuries-old theocracy. How can such strikingly different governmental systems both be compatible with the economic success of their respective nations?

We find that both Flathead and Cochiti have highly developed and legitimate systems of "checks and balances" that serve to limit rent-seeking and inhibit usurpation of power and resources by governmental officials. In the Flathead case, this is achieved with an independent

judiciary (that includes an inter-tribal appeals court), a parliamentary legislative/executive system that enables power to be spread across the multiple (and historically non-aligned) bands that make up the citizenry, and a strong civil service-style bureaucracy that is relatively hard for politicians to manipulate. At Cochiti, on the other hand, what superficially appears to be government by a monolithic theocrat, in fact, turns out to be a sharply differentiated system that disperses powers -- including impeachment, ascendancy, and law making -- across well-defined societies. The result is a political system with a relatively strong chief executive controlled by checks from the other branches of Cochiti government.

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Abstract

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I. INTRODUCTION: THE NEW INSTITUTIONALISM, THE SOCIAL CONTRACT, AND ECONOMIC DEVELOPMENT

Research and teaching on the foundations of economic development are arguably in the midst of a transition -- from "institutions matter" to "where do institutions come from?" The change in focus is more than an intellectual fad. It arises from both the successes and the frustrations of the field.

Hard theoretical and empirical research, as well as recent world events, continue to drive home the point that the formal and informal institutions by which people govern themselves hold the necessary, if not sufficient, keys to the wealth of nations. From the kind of theoretically-informed search for generalizable paradigms represented by North (1981, 1990), Ostrom (1990, 1992), Putnam (1992), Olson (1982), and Bates (1992), to concrete case studies and everyday reports from the World Bank (e.g., 1991, 1994), to the "natural" experiments such as East/West Germany and North/South Korea, a central lesson of the post-

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WWII period seems to be that it is institutions and the policies that flow from them that determine at least whether a society is able to move close to the production possibility frontier defined by its resources, or whether it will be consigned to poverty far off the frontier.

The almost cliché advice of economists to the effect that economic development "requires getting price signals right and creating a climate that allows businesses to respond to those signals in ways that increase the returns to investment" (World Bank, 1994 at 61) has been vindicated as a general matter. But "getting prices right" (i.e., establishing and sustaining markets) and creating an environment that channels rent-seeking into productive endeavors requires a whole panoply of formal and informal social institutions that set down the "rules of the game." Formal institutions range from courts and constitutions to laws and regulations. Informal institutions range from norms regarding whether it is proper to vote to standards of on-the-job behavior. Getting prices and incentives "right" requires getting institutions "right."

North (1990; and, of course, many others) must have the basic story of the primacy of institutions down right: (1) *Specialization* is productive, apparently reflecting diseconomies of scope in (at least) human capacities. (2) Successful specialization requires a certain amount of *coordination* (so that an appropriate mix of desired goods and services is produced within a group) and *exchange* (so that members of a group are not stuck solely with the particular item they produce). (3) Coordination and exchange require *enforceable and stable rules* of allocation and dispute resolution. (4) Rules of allocation and dispute resolution require *third-party enforcement* by parties restricted in their ability to wield

enforcement powers for self-aggrandizing rent-seeking.

I.A Foundations of the New Social Contract Theory

The ability to create a list like the foregoing oversimplifies the challenge of economic development. In point of fact, there cannot be much of the world that has not been exposed to some version of the "get prices and institutions right" advice. Yet, in society A the advice takes hold, and in society B it does not. More generally, notwithstanding the change in political and market affairs occasioned by the collapse of the Soviet Union, it is hard to argue that there are invisible hand-like forces compelling convergence of political and economic systems on an optimum -- at least not at a rate sufficient to make convergence a more interesting topic than the diversity of systems that seems to predominate.

The challenging problem for human beings that is embedded in the New Institutionalist description of the foundations of economic development (and social success, more generally) is that the rules of the game, and the institutions through which those rules are devised, implemented and enforced, are Samuelsonian shared public goods. As such, their creation and maintenance present self-interested individuals with Prisoners' Dilemmas, rife with defection and free-riding opportunities. Ordinary, self-interested rationality by utility maximizing humans gives the invisible hand fits under such conditions, and the provision of mutually beneficial rules of the game and associated institutions, much less their optimal provision, is problematic in the extreme. How have many groups of humans succeeded in getting out, and staying out, of the Hobbesian world?

The classic solution to the large numbers problem of providing the costly-to-exclude public good is disinterested third-party enforcement -- a party which can discipline free

riding defectors (Hobbes, *Leviathan*). This is what we teach undergraduates in economics, often as if it is a positive theory of the state, under the category of "public goods as a form of market failure and the efficiency-enhancing role of government." If government itself, however, is a public good, how do people organize themselves to produce it? As Putnam puts it (*Making Democracy Work*, 1992 at 165):

Part of the difficulty is that coercive enforcement is expensive...The more basic problem, however, is that impartial enforcement is itself a public good, subject to the same basic dilemma that it aims to solve. For third-party enforcement to work, the third party must itself be trustworthy, but what power could ensure that the sovereign would not 'defect'? 'Put simply, if the state has coercive force, then those who run the state will use that force in their own interest at the expense of the rest of society' [quoting North, *Institutions...*, 1990].

Of course, people do create institutions of collective action, including governments; and "defecting," rent-seeking sovereigns are common, but not universal. But, again from Putnam (at 166):

How and why are formal institutions that help surmount collective action problems actually provided? It would seem that the participants themselves cannot create the institution, for the same reason that they need it in the first place, and an impartial "lawgiver" is as problematical as an impartial Hobbesian sovereign.

We cannot, for example, write a contract (i.e., a constitution) to abide by our constitution without falling into an infinite regress of such contracts. Formal mechanisms of social control and organization should archetypically be subject to free riding, as ruling cliques whittle away at the constitution, otherwise well-meaning citizens wait for their neighbors to bear the costs of policing such usurpers, and scofflaws cheat on their taxes and run traffic

lights.¹

This, the Hobbesian conundrum, is leading scholars from many social science disciplines (and even evolutionary biology) to conclude by deduction that the formal mechanisms and institutions via which humans organize processes of specialization, exchange, and third-party enforcement and dispute resolution must be founded on some form of extra-constitutional cooperative agreement -- a social contract -- that glues individuals together. The economist's perspective in these inquiries is perhaps best represented by Douglass North's *Institutions, Institutional Change and Economic Performance* (North, 1990), which aggressively confronts -- but admittedly fails to answer -- the question of how the state as the coercive third-party (i.e., non-rent-seeking) enforcer of society-wide systems of contracts, rules and property rights could ever be constrained solely to the third-party role in a world peopled by wealth maximizing, free-riding individual actors. North is led to search for foundational shared "mental models" and "ideologies" (North, 1981, 1988, 1990; also Denzau and North, 1993). In Robert Putnam's *Making Democracy Work* (Putnam, 1992), the political scientist finds that "social capital" -- embracing networks of reciprocity, trust, cultural norms, and the like -- generated 700-800 years ago through civic associations is the dominant factor explaining the disparate social and economic development conditions found across the various regions of present-day Italy.²

The rational choice movement in sociology, as represented by James Coleman's *Foundations of Social Theory* (Coleman, 1990) and Jon Elster's *The Cement of Society*

¹ For further discussion, see Cornell and Kalt, 1992a.

² See, also, Bates, R., "Contra-Contractarianism: Some Reflections on the New Institutionalism" (Bates, 1988).

(Elster, 1989), is setting about to provide an understanding of the mechanisms by which a culture's shared norms of behavior and perception shape and constrain economic man -- perhaps yielding the "sociology of knowledge" (North, 1988) and "soft" solutions of our "sociologically-minded brethren" (Bates, 1988) that economists and political scientists have begun to call for. From the historian's perspective, Basil Davidson's *The Black Man's Burden: Africa and the Curse of the Nation-State* (Davidson, 1992) drives home the conclusion that differential success in post-colonial Africa is directly related to the structural concordance or incongruence of the nation-state systems left behind by the colonial powers with the historic political cultures of the diverse multitude of native societies.

Finally, evolutionary approaches, per Axelrod's *Evolution of Cooperation* (Axelrod, 1984) are also relevant to the discussion and solution of problems of competition and cooperation. Game theoretic models of narrowly self-interested actors produce primarily non-existence conclusions in the large-number context (e.g., Binmore, 1994), and social scientists are forced to come to grips with the fact that they are studying a *social* animal. Leading evolutionary scholars are turning to models in which humans are the animal that preeminently solved the problems of cooperation and defection with mixtures of the reasoning, language and the interpersonally-triggered private emotional rewards and penalties of a truly social being. -- i.e., a being with capacities for "social sentiments" of self-righteousness and guilt, belonging and loneliness, love and hate, loyalty and disaffection (esp. Barkow, Cosmides and Tooby, 1992; Cosmides and Tooby, 1989; also Allman, 1994 and Frank, 1988). A society's culture -- its positive descriptions of the actual and the possible and its norms of personal and social propriety -- structures perceived opportunity

sets and gives specific content (i.e., tastes) to rational individuals' hard-wired capacities for "utility." The foundations of a social contract are in these cultural descriptions and norms, particularly norms of social interaction and political legitimacy. The form and change over time in a social contract is best understood as determined by a process of highly path-dependent *cultural* evolution, rather than the choice-theoretic invisible hand of economics ... (Boyd and Richerson, 1985; Durham, 1991; Cornell and Kalt, 1995c).³

I.B Evidence from American Indian Nations

Interesting and useful lessons on economic development are now emerging from a somewhat unusual context -- American Indian reservations in the United States. Since the early 1970s, American Indian tribes on reservations in the United States have been accorded a high degree of political sovereignty.⁴ Tribal governments now have the power to legislate, regulate, and adjudicate public policy on their respective reservations. On most reservations, tribes are self-governed under constitutional democracies. The resulting governments entail tribal legislatures, courts, police, taxation, business and environmental regulatory authority,

³ Just to make the sensitive point clear, this framework for understanding the origins and evolution of different social contracts does not involve reference to genetic or racial differences across social groups. It is, instead, founded on a theory of *cultural* evolution. Moreover, as detailed here and in prior research, the cases of highly successful American Indian societies demonstrate that there is no meaningful version of a stereotyping generalization of Indian culture as "backward" or otherwise impeding of economic development. Similarly, there is no evidence to support a stereotyping of Indian culture as uniformly "progressive." Notwithstanding both benevolent and malevolent stereotyping, and just as with other societies, there is no single American Indian "culture;" there is only cultural -- and social contract -- heterogeneity.

⁴ The language of discourse in American Indian affairs differs markedly from that used in international economic development, particularly as related to native peoples. Among U.S. native peoples on reservations, terms such as "American Indian" and "tribe" are generally the terms of preference. Out of respect for the overwhelming support and assistance of the tribes participating in our field work, we employ such terms in our research and writing.

provision of public services, and provision and maintenance of infrastructure.

At present, American Indian citizens on the nation's 300+ reservations are the poorest minority in the United States. Reservations are commonly characterized by severe unemployment and attendant social and economic symptoms of poverty. Notwithstanding these generalizations, however, a handful of tribes have broken ranks and embarked on paths of sustained economic development with the dawn of the era of self-determination in the early 1970s. Previous research has indicated that such factors as resource endowments and human capital stocks explain very little of the differential economic success now apparent among tribes. Rather, the relatively successful tribes over the last two decades are marked by creation of stable political institutions that are relatively effective at implementing public decisions and inhibiting rent seeking. Moreover, effective political institutions are consistently marked by a congruence between their form and powers, on the one hand, and the form and powers of pre-reservation 19th century tribal government, on the other hand.⁵

While it seems clear that institutions "matter" crucially to the economic development of reservations, our previous research indicates that there is a very wide variety of institutional and constitutional forms among even the group of successful reservations. This paper hypothesizes that this reflects a process of "same problems, different solutions." The "problems" include establishment of a rule of law, adoption of public policies of relatively

⁵ See, e.g., our "Reloading the Dice: Improving the Chances for Economic Development on American Indian Reservations" in Cornell, S. and J. Kalt, eds., *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development* (University of California, 1992b); "Where Does Economic Development Really Come From? Constitutional Rule Among the Contemporary Sioux and Apache" (forthcoming, *Economic Inquiry*, 1995a); and "Where's the Glue? Institutional Bases of American Indian Economic Development" (forthcoming in *Festschrift for George Stigler*, ed. Zupan, M., Western Economics Association, 1995b).

free trade with the non-Indian economy, and maintenance of a substantial degree of political stability. The "solutions" consist of the institutional designs adopted and implemented by tribal governments, including their judicial, legislative, and executive institutions.

In this study, we examine the nature of the problem-solving capacities of these institutions among a number of tribes. Particular attention is paid to two economically successful and developing (non-gaming) reservations: the Flathead reservation of Montana and Cochiti Pueblo in New Mexico. The former is characterized by a highly-developed parliamentary democracy, while the latter operates under a traditional theocracy and no written constitution. Are they facing the same problems, but finding different solutions?

II. SOCIAL CONTRACT THEORY AND INSTITUTIONAL DIVERSITY IN INDIAN COUNTRY

II.A Introduction: Same Governments/Different Performance and Same Performance/Different Governments

Our research to date has focussed on explaining the relative successes and failures in Indian Country over the last two decades. Holding constant tribes' resource and human capital endowments, within the group of tribes who have the same governmental system, there are sharp divergences in economic performance. We find that, with resources and governmental form held constant, differential performance across tribes is consistent with differences in the cultural legitimacy of the tribal government. In particular, most tribes had governments created for them by the U.S. government. For some, the U.S.-designed tribal governmental form matched the indigenous (and hence presumably culturally-based) pre-reservation political system relatively well. For others, the cultural match was very poor. The former kinds of tribes are outperforming the latter markedly. Yet there are also notable

cases within the group of identifiably successful tribes in which governmental form differs dramatically -- from democracy to theocracy. At the very least, this suggests that one size does not fit all tribes. Why is this?

The New Social Contract Theory would hypothesize that heterogeneity of governmental form among successful societies means that such societies are solving a common set of problems -- shutting down unproductive rent seeking and holding the government to the role third-party enforcer -- with *effective* institutions of self-government. Cultural heterogeneity among such tribes, however, arguably makes the form of government that "works" for each tribe (because it is both effective and *legitimate*) different by imparting differential patterns to the match between cultural attributes and workable form. Are these hypothesis borne out?

II.B. A Framework for Linking Culture to Institutions

The New Social Contract Theory is plagued by problems of interdisciplinary communication. In particular concepts of "social capital," "cultural norms," and "political culture" can seem excessively vague. We have argued elsewhere that to be productive of economic progress and social health, the formal institutions of government that undergird processes of savings and investment, specialization and exchange, and rights enforcement and dispute resolution must pass tests of both *effectiveness* and *legitimacy* (Cornell and Kalt, 1992b; 1995a).

At a minimum, effective governance requires mechanisms for shutting down non-productive rent-seeking that consumes investment. This entails not only the obvious function

of maintaining law and order, but also the function of limiting the use of governmental mechanisms themselves for purposes of wasteful rent-seeking via aggrandizing rules, regulations, and policies. The latter test of effectiveness is a version of the third-party enforcement problem, and effective institutions entail devices for limiting the power of the individuals in control of the apparatus of government at any particular time. Without devices that are effective in this way, property rights (public or private) are insecure, and processes of both savings and investment and specialization and exchange are thwarted. Such devices are perhaps most commonly recognized in their formal, written-down manifestations -- constitutional separations of power, checks and balances, constitutional and/or legal enumeration of rights, development of judicial precedents, and the like. Surely, however, a society's formal governance institutions do not have to be written down to exist and function; they may be embedded in oral and ceremonial traditions and cultural norms. Indeed, such are the foundations of highly developed formal institutions ranging from English common law to the pre-reservation governments of many American Indian tribes.

Let us be more concrete about "culture." Many attributes of culture -- say, clothing styles and artistic expression -- carry no implications as to workable institutional forms. Because of their collective-goods attributes and because they ultimately involve the wielding of political power, the New Social Contract Theory implies that effective institutions of governance require concordance with a society's norms of political propriety along at least four primary dimensions:

- **Structure of Authority**, i.e., the division of powers and responsibilities across such tasks as dispute resolution (judicial affairs), enforcement (coercion and policing), law and rule making (legislative affairs), administration and implementation of public initiatives and investments (executive and

bureaucratic functions), and external political, economic and military affairs (international relations).

- **Scope of Authority**, i.e., the range of powers and responsibilities wielded by the government over the foregoing areas of authority. E.g., does the society's informal norms support or abhor governmental ownership of businesses?; is it seen to be the proper role of government to enforce contracts?; etc.
- **Location of Authority**, i.e., the level of social organization -- family, local community, the tribe, the nation -- in which political power and responsibility are properly vested, according to a society's cultural norms.
- **Source of Authority**, i.e., the mechanisms by which individuals who assume governmental roles and control over means of coercion acquire *legitimate* authority, and the actions which violate norms of legitimacy.

When cultural norms support institutions as legitimate, it means that the private rewards and penalties of the "social sentiments" are triggered by the social networks within which individuals are embedded in ways that inhibit free riding and defection vis-a-vis those institutions.⁶ Numerous examples from fieldwork in Indian Country (as it is called) illustrate the "policing" role of culturally-founded legitimacy. If, say, the central government of the Oglala Sioux Tribe of the Pine Ridge (South Dakota) reservation tries to follow the example of many tribes and launch tribally-owned businesses, but Sioux cultural norms locate *legitimate* allegiance to authority at the subtribal level of the reservation's districts, the first time a crisis in such a business' finances or management arises, support

⁶ Formally, institutional legitimacy is the ability of the institutions to trigger supportive social sentiments. Presumably, in a path-dependent setting, legitimacy increases with a track record of effectiveness (Lipset, 1963). Such a track record supports positive norms of the feasible. As North's focus noted above on shared "ideologies" (with their normative overtones) suggests, legitimacy also requires concordance with normative norms concerning the right, proper and moral. In both cases, norms of political culture may evolve through "pre-adaption;" i.e., norms regarding sources of proper political power may originate in religious affairs, and be melded by "natural selection" into political institutions when pre-existing institutions are subjected to environmental stress (Cornell and Kalt, 1995c).

for the enterprise withers, free riders are not constrained in consuming available rents, and the enterprise collapses after one round of funding from some federal program. Or, if a tribe's chief executive's formal role as negotiator of external agreements with the outside joint venture investors is not supported by cultural norms because extant norms prescribe *shared* senior leadership, the (e.g.) new manufacturing plant landed with the national automobile company by the tribal chairwoman flounders in mediocrity as other tribal politicians and citizens fail to support the collective effort needed to make it work. Or, archetypically, when the chairwoman opposes the effort by another leader to have that other leader's nephew appointed shift foreman at the auto assembly plant, no patriotic "triggering" speeches for the authority of the office of the chair are made, the chairwoman's support evaporates, a political crisis ensues, the chairwoman is impeached, and the joint venture partner pulls out. Destructive rent-seeking can take numerous forms small and large when governance institutions are not legitimate.

On the other hand, there are no guarantees that culturally legitimate institutions will be effective, or that effective forms will be evolved. A society might well find itself with institutions that are firmly grounded on extant cultural norms, but confronting an environment that renders those institutions ineffective. To borrow a common example from the American Indian context, a tribe historically dependent on unownable migrating wildlife for economic sustenance may have had no reason to have developed a culturally-sanctioned law of contract backed by a culturally-sanctioned, politically-independent judicial system. In the environment confronted in the late Twentieth Century, however, a tribal government

lacking such institutions is likely to be particularly ineffective.⁷ While further discussion is beyond the scope of this study, the evolutionary (as opposed to invisible hand) mechanisms of cultural change suggest that the implied pressure for cultural and institutional adaptation (i.e., leading to formation of effective contract law and judicial systems) are relatively slow-acting and provide no clean theory of equilibrium convergence (Cornell and Kalt, 1995c).

As detailed below, most contemporary tribal governments were accorded effective powers of substantive self-government at approximately the same time twenty years ago. Over the twenty year period since the resurgence of tribal self-rule, and starting from a relatively homogeneous base of poverty and dependence on federal and state funds and systems, the economic performance of tribes has spread out. To what extent can the cross-sectional differences in the economic performance of tribes be explained by differences in the effectiveness and legitimacy of their self-governance systems?

The particular history of the formal institutions by which contemporary American Indian reservations are governed today provides hard-to-find "torque" on research questions of this kind. Because tribal constitutions were effectively imposed on tribes in most cases (and changes in those constitutions were and are often made subject to control by an outside power through Secretarial approval), and tribes demonstrably differ a great deal in their present and historic sociopolitical cultures, the Indian context affords the possibility of observing mismatches between "social contracts" and formal institutions. The public goods theory of such institutions reviewed above directly yields the hypothesis -- testable because of the torque of the Indian setting -- that a mismatch between the underlying social contract

⁷ In fact, we review statistical evidence of precisely this consequence below.

and the formal institutions of a self-governing society should hamper institutional legitimacy and lead those formal institutions to perform relatively poorly. Moreover, because we have tribes with the same formal institutions (derived from the IRA), but with different sociopolitical cultural settings (contracts), the Indian context provides some prospect of isolating social contracts as undergirding determinants of social success. This is further assisted by the fact that American Indian societies are relatively homogeneous within-tribe when compared to, say, the U.S. as a whole, but remarkably heterogeneous across-tribe. Section III below takes advantage of this in trying to understand the effectiveness of vastly different governmental forms.

II.C Background on Economics and Policy in Indian Country

The resurgence of Indian self-rule is most directly the result of a series of Federal legal decisions over the last two decades and the Indian Self-Determination and Education Assistance Act of 1975. Tribes now generally have rights of self-government exceeding a U.S. state's, with the ability to establish their own courts, police, legislatures, bureaucracies, business and environmental codes, tax systems, civil and criminal procedures, and most of the other functions of sovereign polities.⁸

Most tribes operate under constitutions that were drafted by the United States Government in the 1930s, pursuant to the Indian Reorganization Act (IRA) of 1934. IRA

⁸ While the boundaries between tribal sovereignty and federal and state authority are contentious and somewhat unstable, the key elements are that tribes are subject to U.S. civil rights laws (including the Bill of Rights), tribes and tribally-owned enterprises (but not private Indian enterprises or individuals) are free of non-tribal taxation, state governments have very little regulatory authority on reservations, and congressionally mandated federal regulatory authority is often subject to lax enforcement. See Cornell and Kalt (1994).

constitutions were modelled after business or social club boards of directors. They typically provide for: (1) a representative tribal council of (commonly) 7-20 members with legislative powers; (2) a tribal chairperson or president selected in parliamentary fashion by the council or in U.S. executive fashion by direct popular election; (3) little or no provision for judicial institutions or functions; (4) little enumeration of powers of the various parts of the tribal government; and (5) a requirement that the U.S. Secretary of the Interior approve of any changes in the tribal constitution. Even tribes without IRA constitutions often had their constitutions drafted by others (e.g., at the time of a treaty), and non-IRA constitutions often follow the foregoing enumerated structure.

As a general matter, American Indian reservations are quite poor communities. Reservation unemployment is typically around 45 percent (even without adjusting for the not-surprisingly large discouraged worker effects on officially-defined Bureau of Labor Statistics unemployment). Average social conditions are correspondingly unsatisfactory, with rates of social pathologies (e.g., suicide, crime) far above the rates for the U.S. as a whole.

Such "average" images of struggling and underdeveloped economies mask diversity in reservation performance (Table 1). Some reservations appear to be almost pure transfer and grant economies with little on-reservation economic productive activity and most employment in social service sectors. The Pine Ridge reservation in South Dakota, for example, is the poorest community in the United States, according to the U.S. Census. At Northern Cheyenne in Montana, the Tribe reports that approximately 95 percent of all reservation income is derived from federal and state programs, with the remaining small amount of income coming from on-reservation agricultural production. At the neighboring

Crow reservation, on paper, the Tribe is one of the wealthiest societies in the world as a result of extremely rich endowments of coal and agricultural lands, with measured per capita wealth exceeding \$3,000,000 as of 1988; yet, the effective rate of income generation off of this wealth amounts to an annual rate of return of approximately 0.01 percent (Cornell and Kalt, 1992a). As at a number of reservations, Crow unemployment adjusted for discouraged workers is in the range of 80 percent to 90 percent.

Table 1
ECONOMIC PERFORMANCE AND INSTITUTIONAL FORMS
ON AMERICAN INDIAN RESERVATIONS

	Change in Income 1977-89	1989 BLS Employment'	Employment Rel. to Fitted Expectation'	Governmental Form'	Independent Judiciary	Cultural "Match"
Flathead	16%	83%	+11%	Parliamentary	Yes	Yes
White Mtn Apache	12%	89%	+23%	Executive	No	Yes
Cochiti Pueblo	10%	96%	+20%	Theocracy	?	Yes
Mescalero Apache	9%	80%-90%	+33%	Executive	No	Yes
Muckleshoot	6%	74%	+5%	Parliamentary	No	Yes
Pine Ridge Sioux	-1%	50%	-20%	Executive	No	No
San Carlos Apache	-7%	49%	-15%	Executive	No	No
Rosebud Sioux	-10%	10%	-38%	Executive	Yes	No
Hualapai	-11%	26%	-18%	Executive	No	No
Yakima	-12%	39%	-1%	Athenian	Yes	No
Crow	-12%	33%	-7%-	Athenian	No	No
Northern Cheyenne	-15%	52%	-4%	Executive	No	No
All Reservations	-1%	55%	---	--	--	--

Notes to Table 1

- 1 BLS Employment is one hundred percent minus the BLS unemployment rate (with the latter measuring the percent of the workforce actually looking for employment and not finding it).
- 2 Employment Rel. to Fitted Expectation represents the difference between actual employment levels and the employment levels predicted by a model of 67 reservations, controlling for reservation governmental form, local economic conditions in surrounding counties, human and resource capital endowments, and on-reservation property rights structures. This model is presented and estimated in Cornell and Kalt (1995b).
- 3 Parliamentary refers to governments in which the tribal chief executive is selected by the representative tribal council. Executive refers to governments in which the tribal chief executive is directly elected by the tribe's reservation citizens. Theocracy indicates that the tribal religious leader(s) appoints the key tribal authorities and establishes central tribal policies. "Athenian" refers to democratic decision making authority being vested in a tribal council in which all adult members of the tribe serve on the tribal council.
- 4 Cultural Match refers to possible congruence between historical self-selected governmental form and modern (largely imposed) governmental form (see text above and Cornell and Kalt, 1995a, 1995b).

SOURCES: U.S. Census, 1990; Bureau of Indian Affairs, U.S. Department of the Interior, *Indian Service Population and Labor Force Estimates*, var. issues.

In contrast, some reservations have been booming economically and rapidly progressing in terms of social conditions. This holds even outside of the much-publicized cases of successful gaming tribes (which have been able to capitalize on their sovereignty and capture niches in the gambling market). The Flathead reservation in Montana, for example, is the site of an extremely healthy private sector economy based on agriculture and tourism, with real incomes growing and unemployment quite low for rural Montana. With a different strategy of tribal ownership of enterprises, the Mississippi Choctaw have made the Tribe the fourth or fifth largest employer in the State of Mississippi, and the traffic flow at morning rush hour is onto the reservation as thousands of non-Indians commute to work at the Tribe's automobile subassembly plant, its industrial park, its greeting card factory, its shopping centers, and its tribally-run schools and other social service organizations. The White Mountain Apaches in Arizona have followed a similar organizational strategy to build a natural resource-based economy that is the economic base for Indians and non-Indians in its region. With a tribal membership of 12,500, the White Mountain Apaches operate tribal enterprises with revenues of \$80-\$100 million per year, including a major logging and sawmill industry, a ski resort, the premier for-fee sport hunting business in the United States, and an aerospace manufacturing subcontractor. At Cochiti Pueblo in New Mexico, the Tribe owns an upscale retirement community, operates one of the nations top twenty-five public golf courses, and manages tourism on a large recreational lake.

II.D Explaining Cross-Tribe Differences in Performance

With tribes operating in a common policy environment vis-a-vis federal and state authorities, and with all tribes being turned loose to pursue self-government in approximately the same way at approximately the same time, what explains the fairly sharp differences in

their economic performance? The answers to this question of the origin of the wealth of Indian nations are, of course, multi-layered and incomplete. We believe the evidence is strong, however, at a number of layers of inquiry.

First, it is clear that formal institutions matter in precisely the "get the institutions right" sense. In previous research, we have reported cross-sectional analyses of the 67 largest tribes (populations over 700) for which data on economic performance and plausible explanatory variables are available (Cornell and Kalt, 1995b). These analyses indicate with quite strong degrees of statistical confidence that, holding constant variables suggested by neoclassical growth theory (including human capital endowments, natural resource endowments, marketplace opportunities, and the like), constitutional forms add significantly to the explanation of cross-tribe differences in economic performance. The relevant results are shown in Table 2, which reports the *ceteris paribus* contribution to the level of tribal employment of alternative formal governmental institutions. Over the sample, the combination of a directly-elected chief executive and an independent judiciary adds the most to tribal economic performance -- raising employment almost 20 (19.9) percentage points relative to a tribe governed by an "athenian" democracy with no independent judiciary. The latter is the poorest performing form of formal government in Indian Country. "Athenian" democracies (known as general councils in Indian Country) provide no separation of powers or other organizational constraints on rent-seeking through the political arena. They also make every voting-age member of the tribe a member of the tribal council. In so doing, they turn the political arena into a tragedy of the commons for rent-seeking political factions and individuals (Cornell and Kalt, 1992a, 1995b).

Table 2
**CONTRIBUTIONS OF ALTERNATIVE GOVERNMENTAL FORMS
 TO RESERVATION EMPLOYMENT LEVELS¹**

	General Council (Athenian)	Parliamentary System	Independent Chief Executive
No Independent Judiciary	--	10.8%	14.9%
Independent Judiciary	5.0%	15.8%	19.9%

¹ Contributions at mean sample values, as determined by the model estimated over 67 tribes in Cornell and Kalt (1995b). The effects of resource endowments and adjacent non-reservation economic conditions, human capital (education and labor force experience), and degrees of mixed jurisdiction re: on-reservation property rights due to allotment history are held constant. Contributions are measured relative to a reservation with a general council form of government, with no independent judiciary. All effects shown are statistically significant at the 90 percent level and above.

SOURCE: Cornell and Kalt (1995b).

At a second layer of inquiry, we believe the evidence is compelling that there is, indeed, a social contract that undergirds successful formal institutions of self-government and, thereby, social and economic success at the level of Indian nations. The foregoing description of the contributions of various forms of formal governmental structures does not explain all of the variation in the performance of cross-reservation economies. As shown in Table 1, tribes differ sharply in the economic performance (the first and second columns of figures), and such differences persist when performance is measured (conceptually) as distance from the production possibility frontier defined over resource endowments and governmental form (column three of Table 1). In particular, holding constant production

possibility frontiers (as given by resource endowments, etc.) *and* holding constant governmental form, there remain sharp differences in tribal economic performance. In Table 1, for example, the White Mountain Apache and the Pine Ridge Sioux have very similar strong-chief-executive/no-independent-judiciary IRA governments from the 1930s. Yet, the Apaches are performing more than 20 percentage points (in terms of employment) higher than would be predicted by neoclassical growth theory mediated by the New Institutionalism, and the Sioux are performing 20 percentage points more poorly than predicted (column 3, Table 1).

As set forth above, we hypothesize that such differences arise as a result of mismatches between indigenous tribal sociopolitical norms regarding the location, scope, source, and structure of political authority, on the one hand, and the (imposed) formal institutions of tribal government, on the other (Cornell and Kalt, 1995a, 1995b). It is relatively easy to document the immediate (commonly in the second-half of the 1800s) pre-reservation governmental systems of a number of tribes. As self-governing societies that had passed the test of environmental adoption to that point in time, such systems were embedded in the indigenous, diverse cultures of tribes. In some cases, the basic structure of the modern government accords well with the historic structure; in other cases, the mismatch is stark. Thus, for example, the quite successful Cochiti Pueblo has never given up its traditional theocracy and has no written constitution. Cochiti shows a "match" in Table 1. On the other hand, the modern Crow government of undifferentiated Athenian democracy bears little or no resemblance to the hierarchical and two-branch governmental structure of pre-reservation Crow society. Crow is a "no match".

Applying pseudo-regression Boolean procedures (Ragin, 1987) to the sample of twelve tribes for which data on current and prior governmental systems are obtainable and

which are shown in Table 1 permits testing as to whether a "match" between the current governmental system and the indigenous sociopolitical culture adds significantly to our ability to explain and predict the relative economic performance of tribes. Our tests indicate that economic success (defined either as the ability to sustain growth in the present period of self-determination, or as the ability to simply sustain more than a grants and transfers economy) is undergirded by a set of jointly necessary and sufficient conditions: These are summarized in Table 3. The New Social Contract Theory and the New Institutionalism, with additional confirmation from extensive fieldwork, imply that items 2 (limits on political power) and 3 (a match of governmental form to cultural norms) in Table 3 reflect the requirements of effective and legitimate government. They make specialization and exchange (item 1) and productive use of tribal resources (item 4) feasible.

Table 3

**NECESSARY AND SUFFICIENT CONDITIONS FOR ECONOMIC
DEVELOPMENT OBSERVED ON AMERICAN INDIAN RESERVATIONS**

1. *Specialization and Exchange:* A willingness to specialize and engage in trade with the broader off-reservation economy;⁹
2. *Limits to Power:* A formal non-Athenian governmental structure that provides some mechanism of confining the government to the third-party enforcer role and shuts down rent-seeking;
3. *Cultural Legitimacy:* A match between cultural norms governing political affairs and the present formal governmental institutions.
4. *Resources:* A non-trivial stock of at least one resource (e.g., human capital, natural resources).

Source: Cornell, S. and J. Kalt, "Where's the Glue? Institutional Bases of American Indian Economic Development" (forthcoming, *Festschrift for George J. Stigler*, ed. M. Zupan, 1995b).

II.E Summary

The evidence derived from contemporary American Indian reservations is supportive of the conclusions that: (1) economic and social success require "getting institutions right" in the way that Section I implies; (2) formal institutions of social control and organization are shared public goods for which no meta-enforcer exists to shut down defections and free riding; and (3) successful formal institutions of governance are founded upon on informal,

⁹ The designation of a tribe as willing to engage in specialization and exchange (per Table 3) is based on the fact that many tribes demonstrate hostility to "international" trade with the off-reservation economy in the form of refusals to import non-member skilled labor, explicit policies of "self-sufficiency," and closure of various markets (such as recreational tourism). Such insularity is invariably associated with lack of economic development.

shared system of coordinating norms and conventions that we can call a social contract. Yet inspection of Table 1 raises further questions. In particular, what are the formal institutions of governance that "work"? Even within the group of relatively successful tribes that appear at the top of Table 1, we see heterogeneity in governmental form. The theocracy at Cochiti Pueblo, in particular, stands out relative to the constitutional democracies of the other economically prospering tribes. How is it that effective and legitimate governmental forms span such a range?

III. COCHITI AND FLATHEAD: SAME PROBLEMS, DIFFERENT SOLUTIONS

Both the Salish and Kootenai Tribes of the Flathead Reservation and the Keres people of the Cochiti Pueblo are among the most economically successful American Indian societies in the current era of self-determination (Table 1). Accepting the framework from above, the Flathead and Cochiti nations must be meeting the conditions set forth in Table 3. As detailed below, both tribes are notably willing to specialize and engage in "international" trade (i.e., item 1 in Table 3), and both have adequate (but not spectacular) resource bases upon which to build economies (item 4).

The stark difference between Flathead and Cochiti is found in their form of government. The Flathead reservation is organized under a highly articulated and sophisticated parliamentary democracy as provided by its amended 1935 IRA constitution. As described more fully below, this government is structured as if drawn from a high school civics text on good government. Cochiti, on the other hand, avoided the IRA constitutions and, instead, is organized under a theocracy that has operated continuously for centuries. Its structure, powers and procedures are unwritten. Democracy is absent; a theocrat known as the *cacique* appoints tribal officials and functionaries.

In what follows, we attempt to dissect how the different governments of Flathead and Cochiti can both prove to be so effective and legitimate. In some ways, the government at Flathead, with its strong separations of powers and rule-of-law principles, is too easy to diagnose within the New Institutional framework. However, substantial additions to our understanding of the elements of effective and legitimate government are promised by investigation of Cochiti.

The image of a highly traditional, non-democratic theocrat ruling over a society readily calls to mind problems of corrupting power, despotic rent seeking, and the like. Yet, the New Institutionalism and the New Social Contract Theory would predict from Cochiti's economic success that Cochiti's government, in fact, operates under cultural norms and (albeit, unwritten) culturally-founded rules that limit the theocracy to the role of third-party enforcer and shut down wasteful rent seeking. This is the key hypothesis to be tested here. Our research strategy is to dissect the actual mechanisms and principles by which Cochiti government operates. If we do not find the rules and procedures that solve the rent-seeking and third-party enforcer problems, the New Institutionalism and New Social Contract Theory are not supported. As we write this, of course, we know the results. Going in, however, we did not. This increases the power of the findings, although we recognize that Cochiti represents a single case.¹⁰

III.A Current Economic and Social Conditions at Flathead and Cochiti

Flathead: Tables 4 and 5 summarize current economic and social conditions at

¹⁰ The epistemologic standing of this kind of "make a prediction and throw open the curtain a single time" methodology is problematic. As Gould has documented at length in the case of Charles Darwin, the ability of a theory to predict what lies behind a single curtain in a world of multiple possible outcomes does provide scientific knowledge. See, e.g., Gould (1983, especially Chapter 9).

Flathead and Cochiti. The Flathead reservation consists of approximately 1.2 million acres in western Montana. It is governed by the Confederated Salish and Kootenai Tribes, and has its origin in the Hellgate Treaty of 1855. This Treaty was designed to consolidate three groups onto a single reservation -- the Flatheads, the Pend d'Oreilles, and the Kootenais. The Pend d'Oreilles and Flatheads are Salish peoples whose languages are closely related but whose cultures and histories differ to some degree, while the Kootenais are a non-Salish people who speak a very different language, mutually unintelligible with Salish (Chalfant 1974; Johnson, 1969). The Pend d'Oreilles and Flatheads also had a long history of alliance and cooperation, often hunting buffalo together on the plains east of the Rockies. The Kootenais, scattered in a number of bands ranging northwest of the Flatheads and Pend d'Oreilles into Idaho and British Columbia, had once been enemies of the Salish, but some time prior to contact with Europeans, Kootenai bands in western Montana made peace, and occasionally joined the Pend d'Oreilles for hunting and common defense against the Blackfeet (Chalfant 1974).

Table 4
SOCIAL AND ECONOMIC CONDITIONS ON FLATHEAD AND COCHITI

	FLATHEAD (SALISII/ KOOTENAI)	COCHITI PUEBLO	ALL TRIBES
Reservation Population, 1990	21,061	1,400	808.1 (thous)
Reservation Indian Pop., 1990	7,667	936	437.8 (thous)
Indian Unemployment 1990	17%	4%	45%
Change in Unemploy. 1979-90	Down 11%	Down 26%	Up 14%
Indian Per Capita Income, 1990	\$6,428	\$5,828	\$4,478
Change in Income, 1977-89	Up 16%	Up 10%	Down 1%
Indian Median Household Income, 1990	\$14,898	\$18,036	\$12,459
Indian Family Poverty Rate, 1990	32%	27%	47%
Indian High School Grads., 1990	32%	34%	31%
Speak Native Language	14%	61%	52%
Speak Little/No English	3%	21%	23%

SOURCES: U.S. Census, 1990; U.S. Dept. of the Interior, Bureau of Indian Affairs, *Indian Service Population and Labor Force Estimates*, selected volumes.

Table 5

THE STRUCTURE OF THE FLATHEAD AND COCHITI ECONOMIES

SECTOR OF EMPLOYMENT	FLATHEAD	COCHITI	ALL TRIBES
Private	52%	62%	54%
Government	48%	38%	46%
Managerial/ Professional	22%	34%	18%
Sales/ Administration	21%	31%	25%
Services	18%	11%	22%
Agriculture/ Forestry	10%	1%	5%
High Skill Manufacturing	13%	9%	13%
Low Skill Mfg./ Construction	16%	14%	18%

SOURCE: U.S. Census, 1990.

Following the Hellgate Treaty, U.S. authorities treated the three tribes as a single political unit. They originally appointed a Flathead chief as head chief of the new confederation, although it does not appear that either the Pend d'Oreilles or the Kootenais recognized the authority of this position. The Kootenais in particular remained aloof, living in a separate cluster of settlements on the reservation. To this day, many Kootenais continue to congregate and live at some distance from the Salish (Fahey, 1974; Trosper, 1976).

The Flathead reservation is very rural, with substantial agricultural and forest resources. Its boundaries encompass a sizeable portion of Flathead Lake, which has become a major recreational and summer home site. In recent years, the reservation has seen significant growth in, especially, the small business sector of services and retail sales largely related to agriculture and tourism. Individual tribal members and firms run by tribal members also participate in logging, construction, and farming. The tribal government has attempted to own and operate a number of enterprises in recent years, including an electronics assembly facility and a small sawmill. These efforts, however, have consistently been unsuccessful. Overall, however, the Flathead reservation has fared relatively well in the era of self-determination. Its income growth and improvement in employment over the last decade or so are among the most impressive in Indian Country. As of the 1990 U.S. Census, Flathead per capita income exceeded the national average for reservations by more than 40 percent. While the rest of Indian Country experienced a decline in real income and a rise in unemployment rates over the period since the peak in federal spending on Indian affairs in 1977, both income and employment improved substantially at Flathead (Table 4).

A relatively large share, 48 percent, of the tribal workforce works for federal, state, or tribal governments (Table 5). In part, this reflects the importance of the forestry sector at Flathead; the commercial forest resources are publicly-owned by the Tribe and the

managers and specialists in forestry are recorded as governmental employees. The share of employment in the public sector also reflects the Tribe's building up of its own governmental capacity in order to take over functions otherwise filled by the federal Bureau of Indian Affairs and other public agencies (see below).

At present, tribal members are a minority on the Flathead reservation (Table 4). This reflects a history of "allotment" under which tribal lands were transferred into individual Indian and eventually non-Indian hands in the first part of the 1900s. It also reflects a high degree of intermarriage between tribal members and non-members, both non-Indians and Indians from other tribes. Until 1960, enrollment as a tribal member required only 1/16th Salish or Kootenai ancestry. Since 1960, this criteria has been set at 1/4th ancestry. Improved economic conditions in recent years seem to be accompanied by some resurgence of traditionalism in civic and religious affairs. Nevertheless, the civic culture of Flathead appears to be relatively far removed from its pre-reservation roots when compared to most other reservations. One objective indicator of this is the retention of native language. As indicated in Table 4, there are virtually no exclusively-native speakers at Flathead; and only 14 percent of tribal members are fluent in the native language, compared to an average of 52 percent nationally.

Cochiti: With per capita income more than 30 percent higher than the national average for reservation Indians, median household income approximately 45 percent higher than the national average for reservations, and unemployment at only 4 percent, Cochiti Pueblo represents one of the most economically successful tribes in the country (Table 4; also Table 1). As with Flathead, income growth and improving unemployment rates indicate that Cochiti has been among the leading tribes in the country when it comes to taking advantage of its powers of self-government in the era of self-determination in Indian affairs.

The Cochiti reservation consists of approximately 26,000 acres and is located on the Rio Grande River approximately fifty miles north of Albuquerque, New Mexico. The Cochiti Tribe is one of several Keresan-speaking Pueblo tribes that historically resided in New Mexico. These Keres and other Puebloan tribes bore the brunt of the Spanish colonization of what is now New Mexico and that began in the mid-Sixteenth Century. Through rounds of subjugation, enslavement, revolt, appeasement, and accommodation, the Pueblo tribes (including Cochiti) typically revealed an adaptive strategy which was a complicated mixture of taking certain matters (such as religious ceremonies) underground, while absorbing and adopting other dimensions of Spanish (and eventually American) culture and economic systems (Lange, 1979, 1990; Goldfrank, 1927; Schroeder, 1972).

The current reservation economy at Cochiti is based largely on tourism and recreation. As noted above, the Tribe owns a town. The Town of Cochiti has a population of approximately 600. It is a growing, incorporated retirement community based on land originally leased from the Tribe and catering to the market created by temperate climate and the mystique of New Mexico. Through the Cochiti Community Development Corporation and other tribally-owned enterprises and agencies, the Cochiti Tribe provides public services and infrastructure to the Town. These include swim and tennis facilities, a premier golf course, and marina facilities on Cochiti Lake, as well as an array of city services. Cochiti Lake is the product of an Army Corp of Engineers project completed in 1975. Following completion, seepage under the dam virtually destroyed the reservation's prime agricultural land. As indicated in Table 5, agricultural employment is virtually non-existent at Cochiti. Instead, employment is concentrated in white collar managerial and professional positions, sales and administration (particularly in the commercial sector), services, and construction.

Cochiti's economic system is embedded in a highly conservative culture. Religious

affairs, as well as subtribal social groupings and fraternal organizations, are kept extremely private in accord with long-standing Puebloan practices. Norms of personal deportment and behavior are strong, and education is highly valued. Among adults over 25 years of age, more than 40 percent have some college education or higher. The comparable figure for reservation adults nationwide is less than 25 percent. Cultural continuity and homogeneity is high, as suggested by the 61 percent native language retention (Table 4).

III.B Flathead and Cochiti Solutions to the Problems of the Wealth of Nations

There must certainly be many layers to explaining the relative economic success of the Flathead and Cochiti reservations since the start of the era of self-determination. Sustained economic development involves bringing many pieces together, from technical capacities to the social contract. We have argued here, however, that the latter is foundational in the sense of necessary and sufficient conditions. The kinds of results summarized above leads to the nested hypothesis that Flathead and Cochiti are satisfying the conditions set forth in Table 3. From Table 3's list, we now discuss the role of resources, specialization and exchange, limits to power, and cultural legitimacy in the Flathead and Cochiti context.

III.B.1 Resources

A strong version of the economics of comparative advantage might predict that resource endowments affect the *level* of economic development, but not *whether* economic development can take place in a society. If nothing else, any society has labor resources that might be leveraged into productive action. Yet, in Indian Country, there are a number of places where virtually no productive activity that is not transfer-dependent takes place. At

reservations such as Crow, Northern Cheyenne and Pine Ridge, unemployment pushes to 90 percent and higher, and what employment does exist is largely in federally-supported programs serving the needs of the rest of the unemployed population.

Reservations such as Crow are well endowed with natural resources (see above).¹¹ The absence of substantial productive economic activity at Crow implies that a large resource endowment is not a sufficient condition for development to take hold. At the same time, however, the tribes that have been able to launch and sustain productive economies in samples such as shown in Table 1 all have nontrivial resource endowments in the form of natural resources or human capital. Thus, it cannot be said that a substantial resource base of some sort is not a necessary ingredient for reservation development.

Both Flathead and Cochiti have substantial, but not overwhelming, resource bases upon which to build their economies. For Flathead, the combination of good agricultural land, harvestable forest resources, and tourism attractions provides the foundation. At Cochiti, recreational tourism opportunities and the New Mexico climate and mystique have been capitalized upon. In neither case, however, are the tribes uniquely endowed relative to neighboring Indian and non-Indian settings. Relative to many other tribes that have comparable resource endowments but that have not been able to sustain economic activity, Flathead and Cochiti have capitalized on their resources through specialization and "international" exchange.

III.B.2 Specialization and Exchange

The people of both Flathead and Cochiti are best characterized as "free traders."

¹¹ Not to mention human capital. Crow high school graduation rates, for example, significantly exceed the national reservation average.

With comparative advantages in tourism, recreation, and retirement and vacation settings, contrary policies of economic insularity would be particularly counterproductive. Notwithstanding this implication, many tribes with similar opportunities demonstrate hostility to "international" trade with the off-reservation economy. This takes the form of, for example, refusals to import non-member skilled labor, explicit policies of "self-sufficiency" that manifest themselves as rejection of business or capital from outsiders, and closure of various markets that involve extensive interaction with non-members (such as recreational tourism). Insularity in these forms is associated with lack of economic development (see Section II above; also Cornell and Kalt, 1994, 1995b).

In only one significant area do Flathead or Cochiti show mercantilist tendencies. Cochiti is quite unreceptive to importation of high-skilled (esp. managerial) non-Cochiti labor. This reflects the strong linkages that exist between culturally legitimate sources of authority, such as the authority to boss others around in a workplace, and Cochiti religious culture (see below). That Cochiti apparently can move forward economically without extensive reliance on non-Cochiti managers and professionals may reflect a surprising abundance of high-skilled Cochiti managerial labor. Not only does the Tribe have a level of indigenous college-and-above education that is high relative to other tribes (see above), but there is also evidence that Cochiti is an exporter of such labor. That is, the Cochiti managerial pool contains a number of individuals who have been or are employed in managerial and professional positions in, e.g., Albuquerque.

For both Flathead and Cochiti, interaction and trade with outsiders have long and consistent histories. Salish proclivities for marriage outside the tribe appear to antedate the coming of the Europeans, and the Tribe was apparently highly adaptive to such events as the importation of the horse, new technology, and the appearance of new neighbors (Lopach,

Brown and Clow, 1990; Chalfant, 1974). The Puebloan peoples, meanwhile, absorbed the blow of Spanish invasion and colonization and emerged with distinct cultural identities. Even more tellingly, the pueblos of New Mexico were major trading centers along the lines of a modern-day Rotterdam even prior to the coming of the Europeans (Dozier, 1970). Today, culturally-sanctioned forms of interaction and exchange are manifested in Flathead's opening of a major resort on the banks of Flathead Lake and the Cochiti owning a town populated by non-Indian retirees. In fact, the Town of Cochiti was started in the 1960s under a lease from the Tribe by the Hunt brothers (of silver, oil and professional sports team fame). When these original lessees went bankrupt with the oil and silver market collapses of the early and mid-1980s, the Cochiti Tribe took back the lease. It debated internally whether to push the Town to disband (potentially leaving the Tribe in possession of a huge stock of fine homes). It was decided, however, to stay in and expand the retirement community business.

III.B.3 Culturally Legitimate Limits to Power

The final two categories from Table 3 are best addressed in tandem. Especially in the case of Cochiti, the continuity and community acceptance of theocratic government make its cultural legitimacy self-evident. The interesting questions concern whether and how this government succeeds in limiting the government to the role of a third-party dispute resolver, rather than permitting it to be a vehicle for wasteful rent-seeking. Flathead solves these problems with textbook democracy formalized in the 1930s; where, if at all, does the legitimacy of this system come from? We turn first to a description of Flathead government.

Flathead: The Confederated Salish and Kootenai Tribes of the Flathead Reservation were the first Indians to adopt an IRA constitution (in 1934). The resulting government at

Flathead is a classic three-branch parliamentary system with an independent judiciary. The key governing and lawmaking body is the Tribal Council. It consists of ten members elected at-large with reservation district residency requirements. Council members serve staggered four-year terms. The tribe instituted primary elections in 1981 with the intention of encouraging majority coalescence around elected representatives (Lopach, Hunter, and Clow, 1990).

The chief executive of the Flathead government is the tribal chairman. The Chairman is selected in parliamentary fashion by the Tribal Council (rather than through direct election by the citizens). The Chairman serves two-year terms and acts as spokesperson for the Council. A tribal executive director reports to the chairman and oversees eight divisions covering approximately 40 programs a number of tribal enterprises. This executive branch is subject to a civil service system that governs appointment, advancement, compensation, discipline and dismissal among professionals within the Flathead government.

The Flathead government is widely known for its well-developed and independent judicial system. The system includes a tribal police force managed by the tribe under a block grant system that permits a tribe to contract to itself services that might otherwise be performed by, e.g., the federal Bureau of Indian Affairs. An office of attorney general serves as chief prosecutor for the Tribe, and the office is fully-staffed by professionals that might be found in any U.S. state government. A tribal court system serves as primary adjudicator of civil and criminal matters. The appointment and removal of judges is governed by tribal ordinances that delineate criteria and proscribe the role of the Tribal Council. Finally, in an important innovation designed to provide for the rule of law and to eliminate political tampering with judicial affairs, the Flathead participate in an intertribal "supreme" court. This court is a cooperative effort of a number of Montana and Wyoming

tribes. It has the power to hear appeals from the Flathead court. Its judges are drawn from the participating tribes and its rules promote judicial fairness by, for example, providing that a judge may not sit on a case from his/her own tribe.

Several elements of the Flathead governing system reveal its explicit "checks and balances" structure. Many less economically successful tribes, for example, struggle with problems of politicization of (i.e., rent-seeking through) the tribal court system. Both the frequency of examples from the field and the quantitative results reported in Section II demonstrate the deleterious effect this has on economic development (Cornell and Kalt, 1994, 1995b). Particularly in an economy founded in large part on private businesses, as at Flathead, a stable and non-political court system that can fairly adjudicate and enforce contracts is critical (Cornell and Kalt, 1994). Interestingly, key components of the Flathead judicial system, such as participation in the intertribal appeal system, are not embedded in the Tribe's constitution. Instead, they emanate from Council ordinances that might be thought subject to easy and frequent change. Interested parties at Flathead, however, report that (paraphrasing) "constitutions and ordinances can both be changed, but we've built up a tradition around here that says our courts should be independent."

The current Flathead government is the product of considerable reform over the years. Lopach, Brown, and Clow (1990) report that until roughly the mid-1970s the dominant force on the reservation was the Bureau of Indian Affairs superintendent. At that time, however, a group of leaders emerged who are credited with wise reforms that promoted separations and limitations of power and the isolation tribal government into the role of disinterested third-party enforcer. Prior to 1984, for example, the executive bureaucratic functions of the Tribe's government were organized under a committee system reporting directly to council members with vested interests (Lopach, Hunter, and Clow,

1990). The creation of an executive director reporting to the tribal chairman provided insulation of executive functions from the key tribal politicians. Such separation of politics from the day-to-day operations of a tribe is as rare as economic success in Indian Country (Cornell and Kalt, 1994). The result of separation and limitations of power at Flathead is a notably professional and non-rent-seeking government.

One interesting quandary of Flathead government is its parliamentary structure vis-a-vis the tribal chairman. Pre-reservation Flathead society was governed by a strong chief executive system in which a single head chief appears to have been endowed with extensive powers of lawmaking, adjudication, and even law enforcement (Turney-High, 1937; Ronan, 1890). Based on criteria of cultural "match", it might be expected that the Flathead's would not see a relatively weak parliamentary chief executive, lacking the independent political power base of direct election and serving at the behest of the elected council, as legitimate. On the other hand, imposition of a single powerful chief executive on the amalgamation of Flatheads, Pend d'Oreilles, and Kootenais on the Flathead reservation would please the Flatheads but lack *shared* legitimacy. We can speculate that a parliamentary system which does not focus power in a single strong chief executive, but which instead disperses power across factions creates a government with more shared cultural legitimacy on an amalgam reservation. Further investigation of such reservations would be needed to test this speculation.

Cochiti: Three aspects of contemporary Cochiti political organization are especially remarkable. First, as Lange (1990, at 191) notes, "In governing, Cochiti officers are guided by no written laws, or a constitution.... Instead, problems are met by the officers and council by means of innumerable 'regulations,' comprising a body of common law. This body of unwritten, yet efficacious, law is both rigid and flexible, as the situation

demands...." Second, while the formal structure of Cochiti governance is recorded only in the work of researchers and has no formal constitutional basis, it is elaborate, stable, and, judging at least from the recent record of economic development, unusually successful. Third, Cochiti governance is theocratic, operating under the ultimate control of the religious leaders of the pueblo.

Not only can the contemporary governance of Cochiti be characterized this way; historical Cochiti governance can be as well:

The Medicine Societies. Writes Goldfrank, working in the 1920s, (1927, at 25): "...the religious societies are at present the most important factor in Cochiti culture." In the 1940s and 1950s these societies, which Lange (1990) calls medicine societies, retained central importance. There were three such societies through most of this century: Flint, Giant, and Shikame. The major functions of these societies had to do with three things: curing disease, ceremonial retreats or fasts to bring rain, and the selection of pueblo officers (White 1930, cited in Lange 1990).

This last is the key relationship in the system of Cochiti governance. Traditionally, and until very recently, the senior shamans or heads of the three medicine societies appointed the six major officers who managed daily pueblo affairs. The head of the Flint Society -- who is also the *cacique* -- selected the war captain and lieutenant war captain. The head of the Giant Society selected the governor and lieutenant governor, and the head of the Shikame Society selected the fiscale and lieutenant fiscale (Goldfrank 1927; Lange 1990). In a given year, the senior officers were selected from one of the two "kivas" -- either Turquoise or Pumpkin -- into which the pueblo is divided, while the lieutenants were selected from the other. The following year, when a new set of officers was appointed, the kiva links were

reversed, thereby maintaining a balance, over time, between the two "sides" of the pueblo.¹² The separations of power and impediments to rent-seeking are clear in this structure.

By the 1950s, there had been a noticeable decline in the prestige and, to some degree, the significance of the medicine societies. Lange (1990) attributes this to education, increased Cochiti contacts with the outside world, and other factors, and found it most apparent in certain of "the overt aspects of their functions," such as curing and weather control. Yet their significance in tribal governance and, through it, in social control remained, owing to their continued power over the appointment of officers. Even this, however, has been changing in more recent years. The decline in prestige and significance of the medicine societies has been accompanied by a decline in numbers. In 1960, the headman and last surviving member of the Giant Society died. With this, the *cacique*, headman of the Flint society, took over the naming of governors as well as war captains (Lange, 1979).

The Cacique. The *cacique* is the chief religious leader of the pueblo, the keeper of Cochiti traditions and supervisor of religious life, a man of great knowledge, and the highest-status individual in the community. Wrote Goldfrank in 1927 (at. 40): "The Keres Indian name for *cacique* is cteamurni hotcheni, leader-chief. He spends much of his time in prayer, fasting, and retreats. He does not enter into any of the economic activities of the pueblo." The prayer and fasting are on behalf of all the people, for the *cacique* is ultimately

¹² Some system of alteration appears to have operated over most of the nineteenth and early-twentieth centuries (Goldfrank, 1927). The system was lost for a time in the 1920s; from 1920-46, all but two yearly governors came from the Turquoise kiva, leading to great dissention within the Tribe. Since 1947, Cochiti has returned to yearly alteration in the kiva membership of senior officers (Lange, 1990).

responsible for the spiritual and physical well-being of the entire community. Among the various names for him is *yaya*, "mother," for he is the mother of his people. Father Noel Dumarest, pastor to Cochiti and other pueblos from 1894 to 1900, describes the elements of the limits to power that constrained the *cacique*: "He can enter into no social entanglements, he is a man of peace. *Therefore he is relieved of all executive functions.* He neither denounces nor punishes. He gives advice and counsels harmony" (1919, at 197, emphasis added). Once a man has become *cacique*, he may no longer serve on the council of principales, the pueblos secular deliberative body. He does not attend council meetings unless asked for specific information. As one Cochiti told Lange, it "isn't right for the *cacique* to hear arguments or sarcasm" (1990, at 252).

While the *cacique* is uninvolved in the daily, secular affairs of the community, he is at the center of its theocratic political structure, for it is the *cacique* who traditionally appointed the war captains each year and, more recently, appoints the governors as well. As for the *cacique* himself, alone among the various official positions within the pueblo, he is appointed for life. Appointment is by his predecessor. When the present *cacique* is dying, he appoints his successor, with the primary constraint being that the appointee must be a member of the Flint Society and, typically, a shaman of long training and experience.

On the other hand, his own power is not unlimited. "Traditionally," writes Lange (1979, at 373), the *cacique* "could be, and was, brought to trial by the war captains in response to charges of negligence or wrongdoing. The *cacique* could, on decision of the council of principales, be punished, deposed, or even executed." It remains part of the war captains' job "to call the *cacique* to task if he is failing in his ceremonial duties" (Lange, 1990, at 200). Within the last few years, the pueblo declared a *cacique* senile and removed

him from office. In such cases, where a *cacique* leaves office without naming a successor, the war captains (the war captain and his lieutenant) select the new *cacique*.

Officers. Day-to-day Cochiti affairs are in the hands of six officers: the War Captain and his lieutenant, the Governor and his lieutenant, and the Fscale and his lieutenant. The functions of these various executives were -- and remain -- quite different. Traditionally, the war captains, appointed by the head of the Flint Society, who is also the *cacique*, were responsible for deciding the location of the village and led the village in resisting attack. In addition, then and now, they supervised the ceremonial life of the community and were responsible for the preservation of tribal lore. Those who divulged tribal secrets were punished by the war captains (Lange, 1990).

The governor and lieutenant governor, traditionally appointed by the head of the Giant Society, and more recently by the *cacique*, have responsibility for civil affairs, and in particular for relations with the world outside the pueblo. These positions may be relatively recent innovations, perhaps introduced by the Spanish (Lange, 1990), as external affairs became increasingly complex and as outsiders either sought analogues to their own more secular governing individuals or tried to bypass the religious structures of Cochiti governance. Today, outsiders are referred to the governor, and most of the economic affairs of the pueblo go through him and the council of principales. He also organizes the labor in the community, and has the power to punish those who do not comply with his instructions. According to Lange (1990), the governor makes decisions largely on precedent; if no precedent exists, he may refer to the decision to the council, or turn to his fellow officers or the council for advice.

The other two officers in the Cochiti system are the fscale and the lieutenant fscale,

traditionally appointed by the head of the Shikame Society. Their primary duties have to do with the physical structure and operation of the church (Lange 1990). Dumarest (1919) argues that they, like the governors, may be a Spanish innovation -- the institutionalization of the old position of servant to the village priests. The fiscales appear to carry less prestige and influence than the war captains and the governors.

Both historically and today, all of these officers are appointed each December to one-year terms. On rare occasions, a particularly effective officer might be retained for a second year, in which case the entire slate of officers is retained. However, because service is both burdensome and without compensation, after two years in office incumbents are relieved so that they can recover economically (Goldfrank 1927; Lange 1990). All are men; none may belong to a medicine society.

The Council of Principales. The principales are all those who have served in one of the six major offices of the tribe, plus those who are currently serving. These constitute the council. Membership is for life, barring misconduct, which apparently is rare. Goldfrank (1927, at 27) argues: "It is difficult to state just how much power rests with the principales.... They are essentially a body of consultants, the governor bringing various civil matters before them such as land renting and at times punishments and fines. They are informed by the war captain when a person seeks adoption by one of the clans or when a witch is to be tried. However, their sanction is of great importance, since they are honored members of the community, and it is doubtful whether the governor or war captain would act in direct opposition to their expressed will" (see also Lange 1990).

Council and officers appear to turn to each other for advice or, in some cases, for decisions. Council decision making pursues consensus but settles for strong majorities; when the council is more or less evenly divided on an issue, it turns to the six officers, "who act

as a sort of higher council, or ad hoc committee" (Lange, at 215). Similarly, both the governors and the war captains often look to the council for advice, and may even defer to it for a decision. In our own experience, when it comes to major decisions in secular, civil affairs, the governor typically looks to the council for guidance.

Law and Order. Judicial and enforcement functions at Cochiti appear to follow a pattern readily apparent in political organization: a separation of religious and secular affairs, with the governor as judge and enforcer in the secular realm, and the war captains in the religious. For example, as ownership of property developed in the late nineteenth and early twentieth centuries, a body of law grew up having to do with trespass, theft, and other offenses. Cases involving these came largely to the governor for disposition (Goldfrank, 1927). At the same time, law enforcement often involves a wider circle, with each of the principals turning for advice or assistance to a different group of knowledgeable men. "The council actively participates in the secular phases, less openly in the ceremonial, their places being taken by the medicine men, headed by the *cacique*..." (Lange 1990, at 220).

For example, accusations in the secular realm are presented to the governor. He reviews the case and makes a decision based on precedent. If he cannot reach a decision, he turns to his lieutenant and other members of the council. They assemble, question witnesses as well as accuser and accused, and eventually make a decision, which is announced by the governor. As of the 1950s, punishment could include fines, community labor, or lashes with a whip (administered by a junior staff member).

Summary. At least within the documented record, there is remarkable temporal continuity in Cochiti political organization. That organization draws a clear separation between secular and sacred affairs -- yet, through the appointment process, also bridges them. It concentrates

a great deal of power in the theocrat -- yet, through the power of the war captains and the injunction against direct involvement in secular affairs, also constrains him. The theocracy at Cochiti is remarkably crisp and formal in its constitutional constraints on the use of political power for rent-seeking purposes, and on the checks and balances that hold the government to a third-party role.

IV. CONCLUSION

We have hypothesized that economic development requires effective and legitimate government. "Effective" here has referred to government in its role as the enforcer of the rules of the game by which the successful society channels its resources and energy into productive endeavors. Doing this requires that wasteful rent-seeking be shut down, and that the instrument of government be confined to the role of a disinterested third-party enforcer of the rules of the game. But effective government must also be legitimate. That is, as a society's preeminent public good, its authority must be supported by culturally-embedded norms that regulate free riding and defections.

American Indian tribes on U.S. reservations are now struggling with the problems of sovereign self-government. A handful of tribes has begun to emerge from a pattern of underdevelopment and poverty. These tribes are solving the problems of getting institutions right. However, because tribes differ so much culturally one from the other, the formal governmental structures that are legitimate for one tribe may not be for another. As a result, tribes with the same governmental form perform differently in the development arena; and these differences can be explained by differences in the underlying social contract regarding the norms of legitimate authority. In some cases, such as the Flathead of Montana and the Cochiti of New Mexico, tribes operate under drastically different political systems -- from

democracy to theocracy -- but perform well economically. The evidence reviewed here indicates that this is because differences in the cultural norms of legitimacy that make up a society's social contract make it necessary to use different governmental structures to solve the common problems of sustaining economic development.

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